

Chapter 27.31

B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT

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This district is intended to provide a developing area for planned retail uses to serve neighborhoods. This district includes a use permit provision to provide for the integration of the business area with adjacent residential areas and thus reduce the adverse impact on residential areas through enhanced design.

27.31.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-2 Planned Neighborhood Business District. (Ord. 12571 §165; May 8, 1979).

27.31.020 General Purpose.

The regulations for the B-2 Planned Neighborhood Business District set forth in this chapter are established to permit the development of local retail shopping facilities and related activities which will provide for planned and controlled consumer services on a neighborhood level, promote healthful economic growth, create a desirable environment, best complement the general land use pattern of the community, and assist in implementing the established goals and policies of the community. (Ord. 12571 §166; May 8, 1979).

27.31.030 Permitted Uses.

Any development, including building and open land uses, except farming and the sale of farm produce, shall be prohibited in the B-2 Planned Neighborhood Business District prior to the approval of a use permit in conformance with the requirements of this chapter. B-2 Planned Neighborhood Business District zoning shall not be permitted or granted upon any property having a total area of less than five acres. A building or premises shall be used only for the following purposes in the B-2 Planned Neighborhood Business District:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;

- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions, and finance companies;
- (g) Garden centers;
- (h) Barber shops, beauty parlors, and shoeshine shops;
- (i) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- (j) Service stations;
- (k) Hospitals and clinics for animals, but not open kennels;
- (l) Self-service laundromats;
- (m) Receiving stores for dry cleaning or laundry;
- (n) Dry cleaning or laundry establishments, provided that the floor area does not exceed 2,000 square feet exclusive of office and pickup space.
- (o) Messenger and telegraph stations;
- (p) Office buildings;
- (q) Restaurants;
- (r) Stores or shops for the sale of goods at retail, but not including motor vehicles;
- (s) Undertaking establishments;
- (t) Photography studios;
- (u) Bicycle sales and repair shops;
- (v) Key shops;
- (w) Ambulance services;
- (x) Clubs;
- (y) Enclosed commercial recreational facilities;
- (z) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments. (Ord. 18345 §1; April 26, 2004: prior Ord. 17320 §2; April 20, 1998: Ord. 16962 §2; March 25, 1996: Ord. 16767 §5; April 10, 1995: Ord. 16593 §2; April 11, 1994: Ord. 14626 §2; March 16, 1987: Ord. 13736, as amended by Ord. 13745 §2; January 3, 1984: Ord. 12571 §167; May 8, 1979).

27.31.040 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the B-2 Planned Neighborhood Business District in conformance with the conditions prescribed herein:

- (a) Automobile wash facility:
 - (1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.
 - (2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines

and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(b) Motels and hotels:

(1) A distance of at least twenty feet shall be maintained between buildings on the lot;

(2) Each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Dwellings, provided that:

(1) Dwellings shall only be permitted above the first story of a building;

(2) The first story shall be used for a nondwelling use permitted in the district;

(3) Said nondwelling use shall not:

(i) be accessory to the residential use;

(ii) be a parking lot or garage.

(4) Said first story shall not have more than twenty percent of its height below grade.

(d) Early childhood care facilities:

(1) Such facilities shall comply with all applicable state and local early childhood care requirements;

(2) Such facilities shall comply with all building and life safety code requirements.

(3) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities.

(e) Tents and other temporary structures: Tents or other temporary structures shall be permitted for the temporary or seasonal sales of goods at retail under the following conditions:

(1) A tent or other temporary structure shall not reduce the amount of on-site parking to less than the minimum required;

(2) A tent or other temporary structure shall not remain on the premises for more than 180 consecutive days;

(3) A tent or other temporary structure shall comply with all applicable building and life safety codes;

A tent or other temporary structure need not be shown on the approved use permit site plan.

(f) Sale of alcoholic beverages for consumption on the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met; provided that the side yard adjacent to such building shall be 50 feet.

(2) Parking shall be in conformance with the provisions of Chapter 27.67; provided that no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.

(3) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility,

church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licenses premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for public or membership access in the ordinary course of business.

(4) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

(5) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

(6) Notwithstanding any contrary provision contained in Section 27.31.100, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

(g) Sale of alcoholic beverages for consumption off the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met; provided that the side yard adjacent to such building shall be 50 feet.

(2) Parking shall be in conformance with the provisions of Chapter 27.67; provided that no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.

(3) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licenses premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or

unloading doors that are not available for public or membership access in the ordinary course of business.

(4) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

(5) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

(6) Notwithstanding any contrary provision contained in Section 27.31.100, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council. (Ord. 18345 §2; April 26, 2004: prior Ord. 17364 §1; June 29, 1998: Ord. 17051 §1; August 26, 1996: Ord. 16926 §2; February 5, 1996: Ord. 16854 §30; August 14, 1995: Ord. 13344 §2; March 29, 1982: Ord. 12571 §168; May 8, 1979).

27.31.050 Permitted Special Uses.

A building or premises may be used for the following purposes in the B-2 Planned Neighborhood Business District if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

- (a) Health care facilities;
- (b) Recreational facilities;
- (c) Broadcast towers;
- (d) Extraction of sand, gravel, and soil;
- (e) Church steeples, towers, and ornamental spires which exceed the maximum height permitted in the B-2 Planned Neighborhood Business District;
- (f) Expansion of nonconforming uses;
- (g) Historic preservation;
- (h) Public utility purposes;
- (i) Wind energy conversion systems;
- (j) Cemeteries;
- (k) Mail order catalog sales. (Ord. 18229 §3; August 18, 2003; prior Ord. 16144 §5; July 6, 1992: prior Ord. 14378 §10; May 5, 1986: Ord. 14138 §10; June 1, 1985: Ord. 12978 §15; August 25, 1980: Ord. 12894 §18; April 7, 1980: Ord. 12571 §169; May 8, 1979).

27.31.060 Accessory Uses.

Accessory uses permitted in the B-2 Planned Neighborhood Business District are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §170; May 8, 1979).

27.31.070 Parking Regulations.

All parking within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §171; May 8, 1979).

27.31.080 Sign Regulations.

Signs within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §172; May 8, 1979).

27.31.085 Grading and Land Disturbance Regulations.

Grading and land disturbance within the B-2 Planned Neighborhood Business District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §17; February 22, 2000.)

27.31.090 Height and Area Regulations.

The maximum height and minimum lot requirements within the B-2 Planned Neighborhood Business District shall be as follows:

- (a) General requirements:

Table 27.31.090(a)					
	Lot Area (Sq. ft.)	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwellings	2,000 per unit	50'	20'	50'	40'
Other Permitted Uses	0	50'	0', 20'* when abutting residential district	0', 50'* when abutting residential district	40'
* When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.					

- (b) There shall be a required front yard on each street side of a double frontage lot;
- (c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on April 29, 1963, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards;
- (d) Accessory buildings shall not extend into any required yard;
- (e) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

- 125 square feet for the first dwelling unit;
- 80 square feet per unit for the next four dwelling units;
- 25 square feet per unit for the next four dwelling units;
- 20 square feet per unit for each additional dwelling unit beyond nine.

This open space requirement may be met in the following manner:

- (1) The required rear yard may be counted; however, the required front and side yards may not be counted toward fulfillment of said open space requirement, except for porches, balconies, and terraces as permitted in Sections 27.71.100 and 27.71.110;

- (2) Parking spaces, and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;

(3) Required open space may be provided either on a balcony four or more feet in depth or on a rooftop; provided, the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation, and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space.

(4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one if the smallest dimension of the open space is twelve feet or less. (Ord. 12571 §173; May 8, 1979).

27.31.100 Use Permit; Procedures and Requirements.

(a) Minimum requirements: No use permit shall be granted upon any property having a total area of less than five acres, except as provided under Section 27.31.100(k), nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the B-2 Planned Neighborhood Business District shall apply.

(b) Application requirements: Applications for a use permit under this section shall be filed by the owner in writing on a form provided by the city with the Planning Department. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;
- (3) Street right of way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) Location of structures on property;
- (7) Vicinity map;
- (8) Date prepared, scale and north point;
- (9) Schematic and location of buildings;
- (10) Parking areas and capacity;
- (11) Open space for residential uses;
- (12) Use of buildings, such as retail, service, restaurant, office, residential and other uses;
- (13) Height of buildings;
- (14) Location of existing trees and proposed landscape plan;
- (15) Proposed vehicular and pedestrian circulation system including egress and ingress;
- (16) Building and parking setback lines;
- (17) Grading plan;
- (18) On-site and off-site water and sanitary sewer improvements;
- (19) On-site and off-site drainage and storm sewer improvements;

(20) Location of proposed free-standing signs;
(21) Cross-section for paving of parking lots and sidewalks;
(22) Proposed name of the shopping center;
(23) Name, address, and telephone number of developer; certified record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Landscape plan: Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(e) Planning Commission review: Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission action:

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.

(h) Adjustment of yard requirements and height restrictions: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the use permit and the adjustment.

(i) Amendment: The Planning Director is authorized to approve amendments to any use permit granted under this section, provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (b) above which is pertinent to the proposed amendment;

(2) Such amendment shall not violate any provisions of this title;

(3) Such amendment may provide for minor increases in total floor area and storage space originally permitted;

(4) There is no increase in the number of dwelling units;

(5) No reduction is made to the applicable setback or yard requirements;

(6) No public land is accepted;

(7) Such amendment shall not be contrary to the general purpose of this section as specified in Section 27.31.020;

(8) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original application for a use permit.

(j) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(l) A use permit may be granted for a lot of less than five acres, provided:

(1) The lot was legally created prior to the effective date of this ordinance;

(2) The lot has remained under separate ownership from adjoining properties in the B-2 district.

The Planning Commission may, under the above conditions, adjust the requirements under paragraph (b) to permit the applicant a reasonable use of his property.

(m) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be

approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord.17857 §3; June 4, 2001: prior Ord. 16766 §4; April 10, 1995: Ord. 16284 §2; December 14, 1992: Ord. 15239 §2; August 7, 1989: Ord. 13528 §2; January 3, 1983: Ord. 13078 §1; January 12, 1981: Ord. 12751 §14; November 5, 1979: Ord. 12571 §174; May 8, 1979).